

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

BENNY FITZWATER and CLARENCE
BRIGHT, and TERRY PRATER, and
EMMET CASEY, JR., and CONNIE Z.
GILBERT, and ALLAN H. JACK, SR.,
and ROBERT H. LONG, on behalf of
themselves and others similarly
situated,

Plaintiffs,

v.

Civil Action No. 2:16-cv-09849

CONSOL ENERGY, INC., and
CONSOLIDATION COAL CO., and
FOLA COAL CO., LLC, and
CONSOL OF KENTUCKY, INC., and
CONSOL BUCHANAN MINING CO., LLC,
and CONSOL PENNSYLVANIA COAL CO.,
LLC, and KURT SALVATORI,

Consolidated with:
Civil Action No. 1:17-cv-03861

Defendants.

MEMORANDUM OPINION AND ORDER

Pending are (1) the plaintiffs' motion to amend the complaint of Emmett Casey, Jr., et al., filed March 1, 2018, (2) the plaintiffs' motion to exceed page limitation, filed August 17, 2018, (3) the plaintiffs' motion to extend time, filed September 20, 2018, (4) the defendants' motion to strike and to exclude testimony of Dean Michael Hymes ("Hymes"), filed August 24, 2018, (5) the defendants' motion to exceed page limitation, filed August 31, 2018, and (6) the defendants' motion to correct

their response opposing the plaintiffs' supplemental motion for class certification, filed September 6, 2018.

First, the plaintiffs met the March 1, 2018 deadline set forth in the February 6, 2018 scheduling order to amend the pleadings. Accordingly, it is ORDERED that the plaintiffs' motion to amend the complaint be, and it hereby is, granted.

As to the second, third, and fifth motions, it is further ORDERED that the plaintiffs' and the defendants' respective motions to exceed page limitations and the plaintiffs' motion to extend time be, and hereby are, granted.

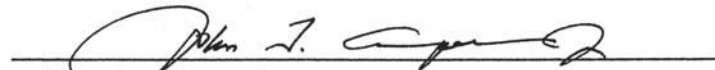
In the October 16, 2018 hearing before the court, the court granted the defendants' leave to depose Hymes within 20 days of that hearing. Oct. 16, 2018 Hr'g Tr. 34:22-36:21, ECF No. 168. The defendants consented to this accommodation at the hearing and deposed Hymes on October 30, 2018. See id.; Hymes Dep, ECF No. 173-1. Accordingly, it is ORDERED that the defendants' motion to strike and to exclude Hymes' testimony is hereby denied.

Finally, the defendants ask to file a corrected response to their August 31, 2018 response opposing the plaintiffs' supplemental motion for class certification. Defs.' Mot. Correct, ECF No. 161. The defendants identified "two

spelling errors, one missing word, one sentence fragment, and one instance where the phrase 'class certification claim' was inadvertently used instead of 'health status discrimination claim'" in the original filing. Id. at 2. It is ORDERED that the defendants' motion be, and hereby is, granted.

The Clerk is directed to transmit copies of this order to all counsel of record and any unrepresented parties.

ENTER: September 30, 2019



John T. Copenhaver, Jr.
Senior United States District Judge